

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) A-9764			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	Application Number 10/783,235	Filed 02/20/2004			
	First Named Inventor Dean F. Jerding				
	Art Unit 2623	Examiner Peng, Fred H.			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input type="checkbox"/> attorney or agent of record. Registration number _____</p><p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>64,440</u></p></td><td style="width: 50%; vertical-align: top; border-left: 1px solid black; padding-left: 10px;"><p>_____ /rrs/ _____ Signature Randy R. Schoen _____ Typed or printed name (770) 933-9500 _____ Telephone number 2 Jan 09 _____ Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>64,440</u></p>	<p>_____ /rrs/ _____ Signature Randy R. Schoen _____ Typed or printed name (770) 933-9500 _____ Telephone number 2 Jan 09 _____ Date</p>
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<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.					

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Confirmation No.: **7398**

Jerding et al.

Group Art Unit: **2623**

Serial No.: **10/783,235**

Examiner: **Peng, Fred H**

Filed: **February 20, 2004**

Docket No.: **A-9764**

For: **CHANNEL CONTROL SYSTEM FOR EXITING FROM AN INTERACTIVE
PROGRAM GUIDE**

**REMARKS IN SUPPORT OF
PRE-APPEAL BRIEF CONFERENCE**

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants submit the following remarks in support of a Request for a Pre-Appeal Brief
Conference.

REMARKS

Claims 1-8 are currently pending and subject to a final rejection based on the final Office Action dated October 2, 2008. For purposes of the pre-appeal brief conference, Applicants respectfully submit that there exists clear cases of error and the omission of essential elements in this rejection, supported by the evidence in the record. Although Applicants believe errors in the rejection are evident for all claims, for purposes of conciseness in the pre-appeal brief conference, Applicants address the errors in the 102(e) rejection using a representative sample of the claims, and in particular, independent claim 1.

I. Rejection of Independent Claims Under 35 U.S.C. § 102(e)

Claim 1 recites (with emphasis added):

1. A method for providing video content via a television, comprising the steps of:
 - providing a user with a menu that includes a plurality of options corresponding to respective control settings for controlling functionality of a channel navigation key, wherein the menu is displayed via the television;
 - receiving a first user input corresponding to ***one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG)*** having a plurality of television program listings;
 - providing the IPG;
 - receiving a second user input corresponding to the channel navigation key; and
 - responsive to receiving the second user input and responsive to having previously received the first user input:
 - terminating providing of the IPG; and
 - providing a video presentation.

The final Office Action alleges on page 2 that “the Applicant’s emphasized features of ‘one of the plurality of options that is configured to terminate provision of an interactive program guide (IPG)’ can be interpreted as ‘options to terminate a specific function or feature within the IPG instead of terminating the IPG itself’; hence the teaching of Alexander with option to unlock the lock function of video display in the IPG reads into the Applicant’s claimed features.” Applicants respectfully disagree, and believe this interpretation to be an error in fact. Specifically, Applicants

submit that terminating a function or feature of an IPG is not the same as “terminat[ing] provision of an interactive program guide (IPG)” as recited in claim 1. Nor does claim 1 include the limitation of terminating a function or feature of an IPG. As such, there is a clear error in fact regarding the claim interpretation of the final Office Action.

Furthermore, the final Office Action alleges on page 3 that the above-emphasized features correspond to the select unlock button, and in particular alleges that the “select unlock button terminates lock state and entering unlock state.” Applicants respectfully disagree. The unlock button, for instance as shown in FIG. 4B, does not provide any functionality that enables termination of an IPG. Indeed, *Alexander* discloses the functionality presented by the unlock and lock button in column 4, lines 5-12 as follows:

If the viewer selects the "lock" status, the last channel to which the tuner was set in the PIP Window continues to be displayed regardless of the actions exercised by the viewer. In the unlocked status, the channel highlighted by cursor 36 in Grid Guide 22 is displayed if the Grid Guide is displaying currently telecast programs and the last currently telecast channel that was highlighted is displayed if the Grid Guide is displaying future programs.

As is evident from the above-cited section of *Alexander*, the alleged equivalent to the claimed “options” has nothing to do with the termination of the IPG, and accordingly, fails to support an allegation of anticipation. Accordingly, for at least the reasons presented above, Applicants respectfully request that the rejection of claim 1 be withdrawn.

CONCLUSION

For at least the reasons set forth above, favorable reconsideration and allowance, or the re-opening of prosecution on the merits of the present application and all pending claims are hereby courteously requested.

Respectfully submitted,

By: 
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